IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.PADMANABHAN NAIR

TUESDAY, THE 25TH SEPTEMBER 2007 / 3RD ASWINA 1929

MACA.No. 612 of 2003()

OPMV.218/1996 of MOTOR ACCIDENT CLAIMS TRIBUNAL, IRINJALAKUDA
.....

APPELLANT/PETITIONER IN OP (MV):

ANITHA VARGHESE (MINOR) AGED 16 YEARS,
D/O. VARGHESE, REPRESENTED BY NEXT
FRIEND AND GUARDIAN MOTHER SICILY,
THARAKAN KURISSERRY HOUSE, MURINGOOR,
VADAKKUMMURY VILLAGE, MUKUNDAPURAM TALUK.

BY ADV. SRI.P.V.BABY
SRI.A.N.SANTHOSH

RESPONDENTS: RESPONDENTS:
----

1. M.S. ABRAHAM, MATHAPARA HOUSE,
MANJOORA, WAYANAD.

2. SURESH, S/O. KUMARAN, VELLAPLAKKIL HOUSE
THARIYODE DESOM, WAYANAD DISTRICT (DELETED)

3. BRANCH MANAGER, UNITED INDIA
INSURANCE COMPANY, BRANCH OFFICE, KALPETTA.

BY ADV. SRI.SUNNY MATHEW
SRI.N.S.MOHAMMED USMAN

THE SECOND RESPONDENT IS DELETED FROM THE PARTY ARRAY AT THE RISK OF THE APPELLANT AS PER ORDER DATED 25.7.2007 ON I.A. NO.1538/2007

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD ON 25/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K. PADMANABHAN NAIR, J.

==========

M.A.C.A. NO. 612 OF 2003

==========

Dated this the 25th day of September, 2007

J U D G M E N T

Petitioner in O.P(MV) No.218 of 1996 on the file of the Motor Accidents Claims Tribunal, Irinjalakuda is the appellant. Appellant, who was a minor, sustained injuries in a motor vehicle accident which took place on 29.10.1995 at about 8.00 a.m. She filed the petition through her father claiming a compensation of Rs.1,00,000/-. Tribunal awarded a sum of Rs.48,000/-. Complaining that the quantum of compensation awarded by the Tribunal is inadequate, petitioner herself had filed this appeal.

2. The findings of the Tribunal that the accident occurred due to the negligence of the driver of the vehicle and appellant is entitled to compensation, etc., have become final. The finding of the Tribunal that the Insurer is liable to pay the compensation awarded has also become final. The only question arising for consideration is whether the petitioner is entitled to get any additional compensation.

3. It is true that the Tribunal has awarded Rs.48,000/-

as compensation. A sum of Rs.20,000/- was awarded towards medical expenses alone. The evidence on record shows that petitioner produced Exhibit A12 series of medical bills for more than Rs.19,950/-. So even the amount awarded under the count of medical expenses is low. Considering the fact that the injuries suffered are by a minor girl which affected her studies and future, I am of the view that the Tribunal ought to have awarded Rs.12,000/- more towards compensation for loss of amenities, discomforts, etc. The petitioner is entitled to get that amount also.

In the result, the appeal is allowed in part. An award is passed in favour of the appellant allowing her to recover an additional compensation of Rs.12,000/- with 6% interest from the date of petition till date of deposit. The Insurer is directed to deposit that amount also. On deposit, the appellant can withdraw the entire amount.

K. PADMANABHAN NAIR, JUDGE.

vsv

K. PADMANABHAN NAIR, J.

==========

M.A.C.A. NO. 612 OF 2003

==========

J U D G M E N T

26TH SEPTEMBER, 2007